

### Amendments to the Claims

Claim 1 (Original): Hybrid maize seed designated 34B97, representative seed of said hybrid 34B97 having been deposited under ATCC accession number \_\_\_\_\_.

Claim 2 (Original): A maize plant, or its parts, produced by the seed of claim 1.

Claim 3 (Original): Pollen of the plant of claim 2.

Claim 4 (Original): An ovule of the plant of claim 2.

Claim 5 (Previously amended): A tissue culture of regenerable cells or protoplasts of a hybrid maize plant 34B97, representative seed of said hybrid maize plant 34B97 having been deposited under ATCC accession number \_\_\_\_\_, wherein the tissue regenerates plants capable of expressing all the morphological and physiological characteristics of said hybrid maize plant 34B97.

Claim 6 (Previously amended): The tissue culture according to claim 5, the cells or protoplasts being from a tissue selected from the group consisting of leaves, pollen, embryos, roots, root tips, anthers, silks, flowers, kernels, ears, cobs, husks, and stalks.

Claim 7 (Original): A maize plant, or its parts, regenerated from the tissue culture of claim 5 and capable of expressing all the morphological and physiological characteristics of hybrid maize plant 34B97, representative seed having been deposited under ATCC accession number \_\_\_\_\_.

Claim 8 (Currently amended): The maize plant of claim 2 wherein said maize plant ~~has been manipulated to be male sterile~~ comprises an introgressed cytoplasmic gene that confers male sterility.

Claims 9-19 (Canceled)

Claim 20 (Original): A maize plant, or its parts, having all the morphological and physiological characteristics of the plant of claim 2.

Claims 21-43 (Canceled)

Claim 44 (Currently amended): A method of developing a transgenic 34B97 maize plant, comprising transforming at least one of the inbred parents of 34B97 with a transgene, wherein said transgene is selected from the group consisting of a plant disease resistance gene, an insect resistance gene, an herbicide resistance gene, a male sterility gene, and a gene that encodes a product that modifies fatty acid metabolism, that decreases phytate content, or that modifies starch metabolism and wherein a representative sample of said inbred parents have been deposited as \_\_\_\_\_ for GE533003 or \_\_\_\_\_ for GE567919, and crossing said inbred parents to produce a transgenic 34B97 hybrid maize plant.

Claim 45 (Currently amended): The maize plant ~~of produced by the method of claim 44 wherein said transgene is a transgene selected from the group consisting of: a plant disease resistance gene, an insect resistance gene, an herbicide resistance gene, a male sterility gene, and a value-added trait gene.~~ produced by the method of claim 44

Claim 46 (Currently amended): The maize plant of claim 45 wherein said transgene is an insect resistance gene encoding a *Bacillus thuringiensis* endotoxin polypeptide, ~~a derivative thereof or a synthetic polypeptide modeled thereto.~~

Claim 47 (Currently amended): The maize plant of claim 45 wherein said transgene is an herbicide resistance transgene selected from the group consisting of: a transgene conferring glyphosate resistance, a transgene conferring glufosinate resistance, a transgene conferring ~~imadazolinone~~ imidazolinone resistance and a transgene conferring sulfonylurea resistance.

Claim 48 (Currently amended): A method of developing a backcross conversion 34B97 hybrid maize plant, comprising backcrossing a ~~gene~~ mutant gene or transgene into at least one of the inbred parents of 34B97, wherein said backcross conversion mutant gene or transgene is selected from the group consisting of a plant disease resistance gene, an insect resistance gene, an herbicide resistance gene, and a male sterility gene, and a gene that encodes a product that modifies fatty acid metabolism, that decreases phytate content, or that modifies starch metabolism and wherein a representative sample of said inbred parents have been deposited as \_\_\_\_\_ for GE533003 or \_\_\_\_\_ for GE567919, and crossing said inbred parents to produce a ~~transgenic~~ backcross conversion 34B97 hybrid maize plant.

Claim 49 (Currently amended): The maize plant ~~of~~ produced by the method of claim 48 ~~wherein said gene is a transgene selected from the group consisting of: a plant disease resistance gene, an insect resistance gene, an herbicide resistance gene, a male sterility gene, and a value added trait gene.~~

Claim 50 (Currently amended): The maize plant of claim 49 wherein said mutant gene or transgene is an insect resistance gene encoding a *Bacillus thuringiensis* endotoxin polypeptide, ~~a derivative thereof or a synthetic polypeptide modeled thereto.~~

Claim 51 (Currently amended): The maize plant of claim 49 wherein said mutant gene or transgene is an herbicide resistance transgene selected from the group consisting of: a transgene conferring glyphosate resistance, a transgene conferring glufosinate resistance, a mutant gene or transgene conferring imidazolinone ~~imadazolinone~~ imidazolinone resistance and a mutant gene or transgene conferring sulfonylurea resistance.

Claim 52 (Previously added): A maize plant, or parts thereof, having all the morphological and physiological characteristics of hybrid maize plant 34B97 representative seed of said hybrid maize plant having been deposited under ATCC Accession No. \_\_\_\_\_.

Claim 53 (Previously added): A method for producing a 34B97 progeny maize plant, comprising:

- (a) crossing the maize plant or plant parts of claim 2, with a second maize plant to yield progeny maize seed; and
- (b) growing said progeny maize seed, under plant growth conditions, to yield said 34B97 progeny maize plant.

Claim 54 (Previously added): The method of claim 53 further comprising the step of:

- (c) selecting and harvesting 34B97 progeny maize plants which comprise 2 or more 34B97 characteristics described in table 1 or 2.

Claim 55 (Canceled)

Claim 56 (Previously added): A method of making a hybrid maize seed 34B97 comprising:

crossing an inbred maize plant GE533003 and GE567919, deposited as \_\_\_\_\_ and \_\_\_\_\_, respectively to produce hybrid maize seed 34B97.

Claim 57 (Previously added): A process for isolating an inbred parent of hybrid maize plant 34B97, representative seed of which have been deposited under ATCC Accession No. \_\_\_\_\_, comprising:

- (a) planting a collection of seed comprising seed of hybrid maize plant 34B97, said collection also comprising seed of said inbred parent;
- (b) growing plants from said collection of seed;
- (c) identifying an inbred parent plant; and
- (d) selecting said inbred parent plant.

Claims 58-59 (Canceled)

Claim 60 (Previously added): A method for producing a 34B97 progeny maize plant comprising:

- (a) growing the plant of claim 2, and obtaining self or sib pollinated seed therefrom; and
- (b) producing successive filial generations to obtain a 34B97 progeny maize plant.

Claim 61 (Previously added): A maize plant produced by the method of claim 60, said maize plant having received all of its alleles from hybrid maize plant 34B97.

Claim 62 (Previously added): A method for producing a population of 34B97 progeny inbred maize plants comprising:

- (a) growing the plant of claim 2 and obtaining self or sib pollinated seed therefrom; and
- (b) producing successive filial generations to obtain a population of 34B97 progeny inbred maize plants.

Claim 63 (Currently amended): ~~A~~The maize plant population of 34B97 progeny inbred maize plants ~~from the inbred population of maize plants~~ produced by the method of claim 62, said ~~plant population~~ having received all of its alleles from hybrid maize plant 34B97.

Claims 64-65 (Canceled)

Clam 66 (New): The maize plant produced by the method of claim 48 wherein said maize plant exhibits no statistically significant variation from 34B97, other than variation caused by the addition of said mutant gene or transgene, and wherein significance is determined at a 5% significance level when grown in the same environmental conditions as 34B97.